

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: May 20, 2014
RE: 14-0891CA/CU; 156 Ferguson Avenue

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 5

Owner/Representative: John & Judy O'Brien

Request: Conditional use to convert existing home to a small daycare center. Construct new driveway and remove pool, apron, and deck.

Applicable Regulations: Article 3 (Applications and Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), and Article 8 (Parking)

Background Information:

The applicant is seeking approval to establish a "small daycare center" (as defined in the Comprehensive Development Ordinance) for up to 20 children. The daycare center would replace the existing single family home use. Small daycare centers are allowed as stand-alone conditional uses in the RL zone.

No exterior building alterations are proposed; however, a new driveway and outdoor play area are proposed. A pool with apron and a deck previously permitted have been removed without a permit. Their removal is also included in this application.

While the proposed use is generally acceptable, questions have been raised relative to the size of the subject property. These questions directly relate to the corresponding lot coverage percentages and whether they are compliant or not. Approval cannot reasonably be granted until this basic matter is resolved.

Previous zoning actions for this property are noted below.

- 10/20/05, Approval to install vinyl siding
- 4/02/03, Denial w/o prejudice to establish accessory apartment
- 6/18/02, Denial to convert single family home to duplex
- 5/18/93, Approval to change roofline
- 7/24/90, Approval to construct two story addition to single family home
- 8/15/88, Approval to install window dormer
- 6/15/77, Approval for 4-unit apartment (not constructed)

Recommendation: Review and table pending resolution of lot size and associated lot coverage.

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

(1) The capacity of existing or planned community facilities;

The proposed small daycare center will entail little additional impacts on community facilities currently serving the residence and the neighborhood. Demands on wastewater may increase. The applicant is responsible for inquiring with the Vermont Department of Environmental Conservation, Wastewater Division as to the need for a wastewater permit for the proposed use.

(Affirmative finding as conditioned)

(2) The character of the area affected;

The home is located in an area defined by detached single family homes, although there are a handful of multi-family dwellings scattered throughout. The neighborhood generally reflects the intent of the RL zone. The proposed small daycare center will be located within the existing structure. Although the daycare use will replace the residential use, the outward appearance of the property will remain residential. Insofar as the proposed daycare center complies with the applicable provisions of the CDO and will retain an outward residential appearance, it fits reasonably well within the character of this neighborhood. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;

Up to 20 children will be served by the proposed daycare. Drop-offs will generally occur in the mornings starting at 7:00 AM, and pickups will generally occur in the late afternoon and be complete by 5:30 PM. As such, traffic generation will be clustered in the morning and again in the late afternoon. No traffic impact analysis has been provided or is required for a proposal of this size. The existing street grid network, dual site access points (Wells Street and Ferguson Avenue), and proximity to neighboring residences likely to utilize the daycare will serve to moderate potential traffic impacts. **(Affirmative finding)**

(4) Bylaws then in effect;

As conditioned, the proposed daycare center complies with applicable bylaws. **(Affirmative finding)**

(5) Utilization of renewable energy resources;

Not applicable.

(6) Cumulative impacts of the proposed use;

The proposed small daycare facility will operate Monday – Friday during normal business hours. A search of the zoning records within the greater neighborhood indicate three other existing daycares: a home daycare at 94 Richardson St, another home daycare at 103 Ferguson Ave, and a small daycare at 331 Flynn Ave. Cumulative impacts are expected to be minimal. **(Affirmative finding)**

(7) Functional family;

Not applicable.

(8) Vehicular access points;

The subject property is served by a private driveway off of Wells Street. A second driveway to be accessed via an existing curb cut on Ferguson Avenue is also proposed. This second driveway will provide the required staff parking. **(Affirmative finding)**

(9) Signs;

No signs are proposed. **(Affirmative finding)**

(10) Mitigation measures;

The proposed small daycare center will not generate heat, noise, or glare sufficient to warrant mitigation measures. **(Affirmative finding)**

(11) Time limits for construction;

Not applicable.

(12) Hours of operation and construction;

The proposed hours of operation are 7:00 AM – 5:30 PM, Monday - Friday. It will be closed on all state and federal holidays. These are typical daycare hours and are generally limited to those times when most residents are away at work and will thereby limit the potential for adverse impacts on neighboring properties. **(Affirmative finding as conditioned)**

(13) Future enlargement or alterations;

Any future enlargement or alterations of the small daycare center will require additional permit review per the regulations in effect at that time. **(Affirmative finding as conditioned)**

(14) Performance standards;

Not applicable.

(15) Conditions and safeguards;

Approval of this project will be conditioned to implement the purposes of the zoning regulations. **(Affirmative finding)**

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single family homes and duplexes. The primary use will change from that of a single family home to a small daycare center. The proposed small daycare center is allowed as a conditional use. **(Affirmative finding)**

(b) Dimensional Standards & Density

Residential density will drop from 1 to 0 units.

The net change in lot coverage will result in 28.7% lot coverage, below the 35% limit in the RL zone. This coverage figure is based on a 58' X 192' lot size (11,136 sf). This lot size is consistent with the previous site plan approval for this property; however, the city's tax map indicates an approximate lot size of 7,750 sf. Public comment received relative to this application asserts a lot

size of 50' X 150' (7,500 sf). The applicant must clarify exactly what the lot size is with either a survey (existing or new) or deed so that compliance with lot coverage can be confirmed.

The proposed Ferguson Avenue driveway scales to a 4' side yard setback, whereas a minimum setback of 5' is required. This correction must be reflected on a revised site plan. The 36' long new driveway is sufficiently long to place two 20' long parking spaces behind the 16' minimum front yard setback (the average front yard setback is 21', +/- 5' = 16' to 26' setback allowance). Rear yard setbacks are unaffected. The fence used to enclose an outside play area is not subject to setback requirements.

Building height will remain unchanged. Height and type of the proposed play area fence is not noted and must be. **(Affirmative finding as conditioned)**

(c) Permitted & Conditional Uses

As noted above, the proposed small daycare center requires conditional use review. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

No driveway setback encroachments are being sought. **(Not applicable)**

2. Height

No height bonuses are being sought. **(Not applicable)**

3. Lot Coverage

No lot coverage bonuses are being sought. **(Not applicable)**

4. Accessory Residential Structures and Uses

No new accessory structures are sought. **(Not applicable)**

5. Residential Density

No exceptions to the occupancy limits of the home are sought. **(Not applicable)**

6. Uses

No neighborhood commercial use is included in this proposal. **(Not applicable)**

7. Residential Development Bonuses

No development bonuses are being sought. **(Not applicable)**

Article 5: Citywide General Regulations

Part 4: Special Use Regulations

Sec. 5.4.1, Small Day Care Center

(a) No playground equipment shall be located within the front yard.

No playground equipment is proposed in the front yard. A fenced play area is proposed in the side yard. **(Affirmative finding)**

(b) No more than 20 full-time children are to be served.

Up to 20 children will be served. **(Affirmative finding)**

- (c) *The site plan review shall insure adequate and safe drop-off and pick up space is provided and that traffic problems are not created.*

The property is presently served by a driveway access from Wells Street. As the home's primary entrance is accessed from this point, the proposed daycare will use the Wells Street access for drop-offs and pick-ups. The drop-off/pick-up area is 33' long by 19' – 11' wide and is sufficiently sized to accommodate two vehicles at a time. The applicant has stated that access to the property from Wells Street is via an access easement across a rear alleyway. A copy of this access easement must be provided to confirm access. Note also that there is room in the new Ferguson Avenue driveway for two more vehicles to pull in and out for pick-ups/drop-offs behind the 2 staff parking spaces. The proposed access arrangement should be adequate. **(Affirmative finding as conditioned)**

- (d) *Any additions, signage, or site improvements shall be residential in character.*

No exterior building changes or signs are proposed. The new driveway (36' X 18') is within the dimensions typical for a residential use. **(Affirmative finding)**

- (e) *The facility shall be licensed or registered by the State of Vermont.*

The application indicates that the small daycare center will be licensed by the State of Vermont. Such proof of licensing will be required. **(Affirmative finding as conditioned)**

- (f) *No more than one residential unit may be converted for the creation of a single small day care center...*

Only one single family home will be converted for use as a small daycare center. This conversion is exempt from the housing replacement requirements of Article 9, Part 2.

(Affirmative finding)

- (g) *The neighborhood is not overburdened with other day care centers.*

A review of the zoning permit records for the entire neighborhood between Home Avenue and Flynn Avenue reveals three other permitted daycares as noted in Article 3 above. The addition of one more daycare center in this area will not overburden the neighborhood. **(Affirmative finding)**

Article 5: Citywide General Regulations

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

Not applicable (no new lighting proposed).

Sec. 5.5.3, Stormwater and Erosion Control

As more than 400 sf of earth disturbance is proposed, a "small project erosion control" form is required. This form is subject to review and approval by the Stormwater Administrator.

(Affirmative finding as conditioned)

Article 6: Development Review Standards

The subject property's conversion to something other than a single family home triggers design review in this non-design control area of the city; however, no construction beyond a driveway and fence (addressed in Articles 4, 5, & 8 of these findings) is proposed.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The parking requirement for small daycare centers in the Neighborhood Parking District is 1 space per 2 employees. As 3 employees are proposed, 2 parking spaces will be required. These two spaces will be provided in the new driveway off of Ferguson Ave.

There is no numeric parking requirement for pick-up/drop-off area. See Article 5 above for details on the proposed arrangement. **(Affirmative finding)**

II. Conditions of Approval

None offered at this time. Lot size and coverage need to be resolved before approval can be considered.

Scott Gustin

From: judybelval <judybelval@gmail.com>
Sent: Tuesday, May 13, 2014 11:50 AM
To: Scott Gustin
Subject: Narrative for proposed daycare

RECEIVED
MAY 13 2014

DEPARTMENT OF
PLANNING & ZONING

Small Daycare center located @ 156 Ferguson Ave., Burlington

Create openings for up to 20 full-time children

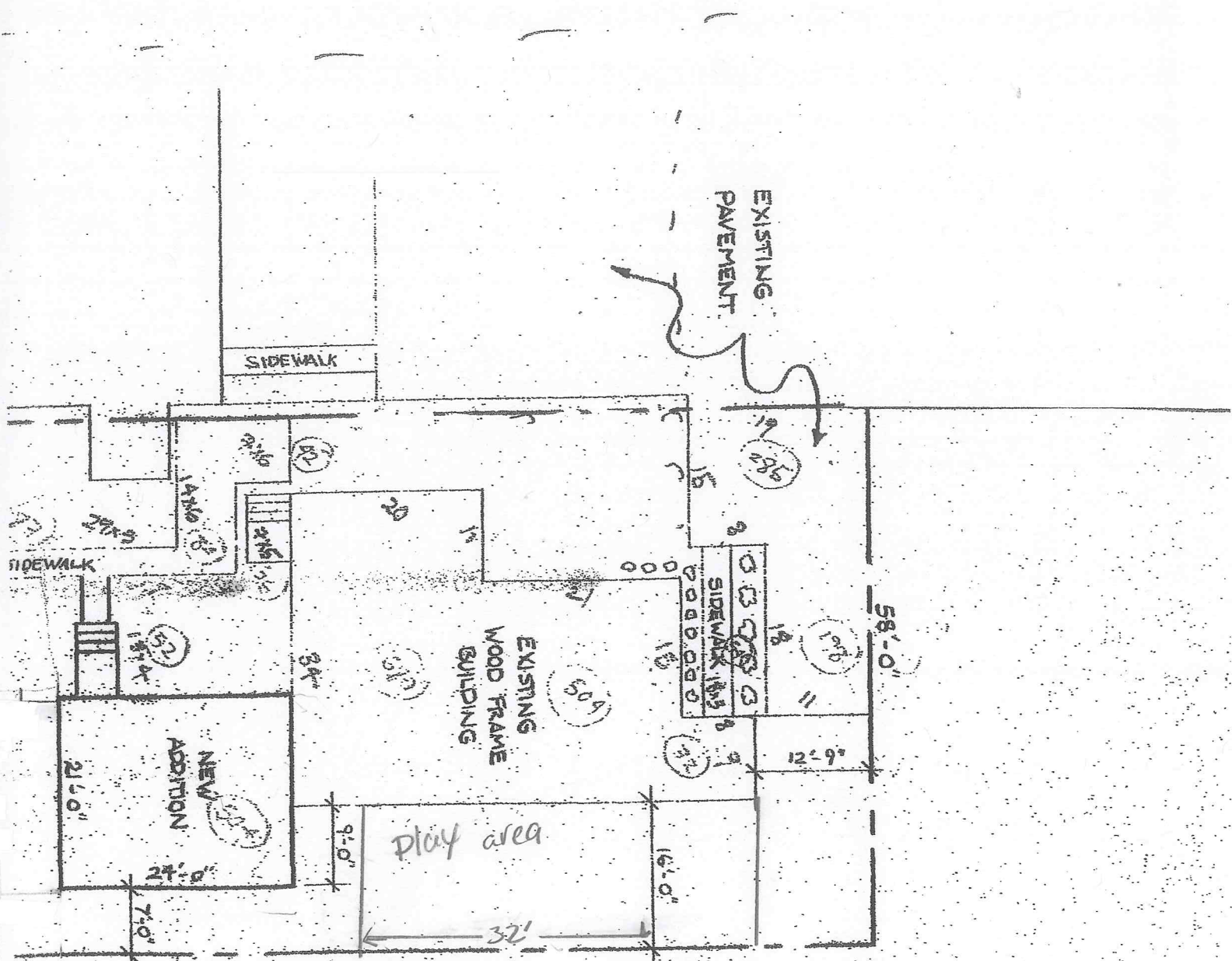
Create up to three new jobs: One director and two teachers

Proposed hours of Operation 7am-5:30pm Monday-Friday, closed all Federal/State Holidays

Promote community and social responsibility through green practices i.e composting, gardening and need based discounts.

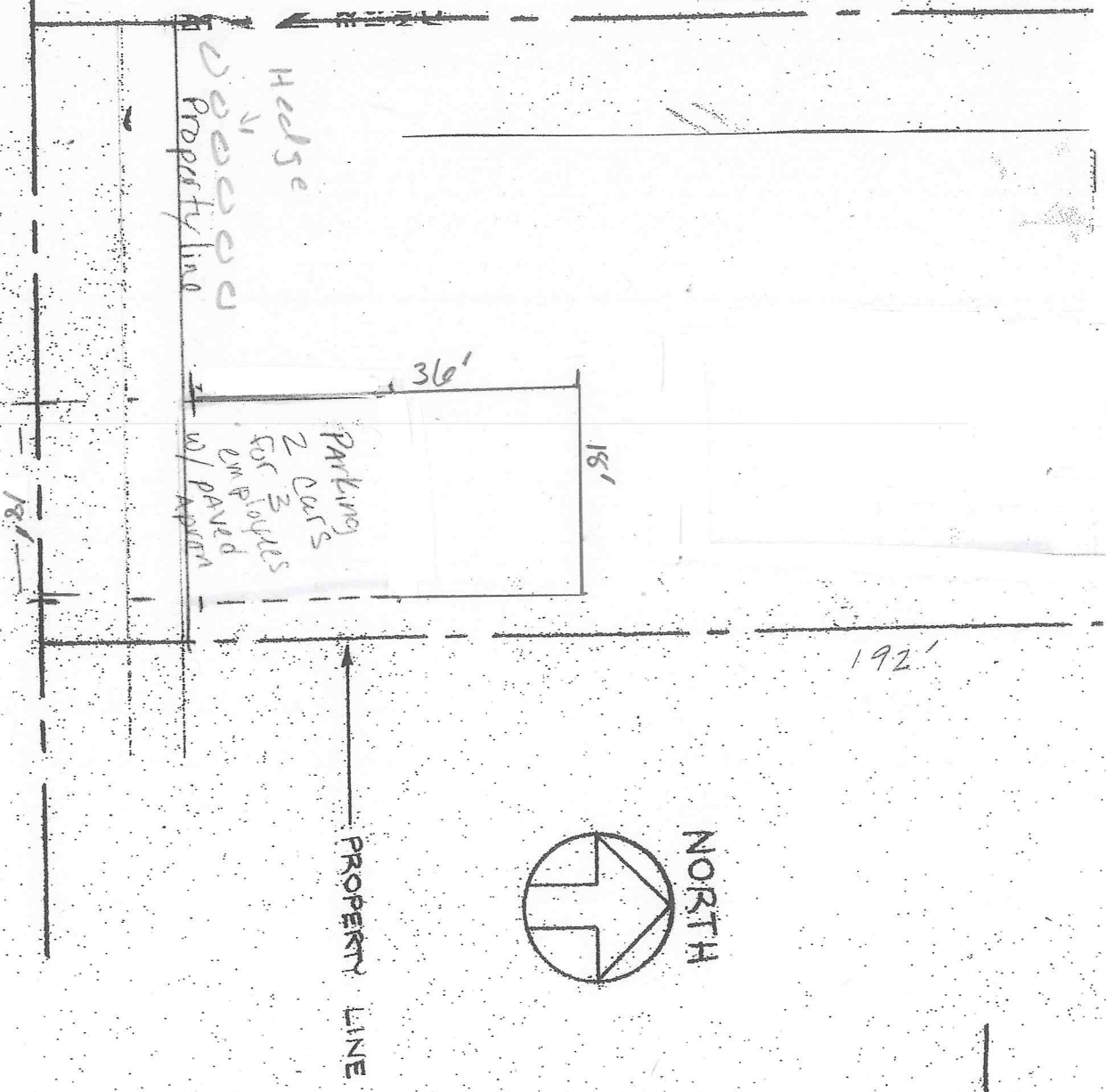
156 Ferguson Ave





$3,039 \text{ sf ext} = 27.3'$
 $2,543 \text{ sf ext w/no deck} = 22.8'$
 \downarrow
 $+ 648 = 3,191 \text{ sf} = 28.7'$

Plan showing additional
 parking & playground area
 Proposed lot
 Coverage =
 $2721 / 7750 \times 100 = 35.1\%$



156 FERGUSON AVE.
 SITE PLAN
 SCALE: 1/8" = 1'-0"

RECEIVED
 MAY 12 2014
 DEPARTMENT OF
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